

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Polina Baratova

Case No.: 22-cv-02898

Plaintiff,
-against-

**AFFIRMATION IN
SUPPORT OF
CERTIFICATE OF
DEFAULT**

Sophia Collier

Defendants.

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Jason Mizrahi, an attorney admitted to practice law in the State of New York, duly affirms under the penalties of perjury as follows:

1. I am an attorney with Levin-Epstein & Associates, P.C. (“Levin-Epstein”) and counsel for Plaintiff Polina Baratova (“Plaintiff”) in the above-captioned proceeding. I am fully familiar with the facts and circumstances surrounding this matter.

2. I submit this affirmation pursuant with Rule 55(a) of the Federal Rules of Civil Procedure, in support of Plaintiff’s application for certificate of default against defendant Sophia Collier (hereinafter the “Defaulting Defendant”).

3. The Defaulting Defendant is not an infant or incompetent person for whom a committee has been appointed, or in the military service as defined by the Act of Congress known as the “Soldiers’ and Sailors’ Civil Relief Act” of 1940 and in the New York “Soldiers’ and Sailors’ Civil Relief Act”,

4. This is an action seeking recovery against the Defaulting Defendant’s violations of the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* (“FLSA”), and violations of Articles 6 and 19 of the New York State Labor Law (“NYLL”) and their supporting New York State Department

of Labor regulations.

5. The Court has subject matter jurisdiction of this case pursuant to 29 U.S.C. § 216 (b), 28 U.S.C. § 1331 and 28 U.S.C. § 1337, and has supplemental jurisdiction over Plaintiff's claims under the NYLL pursuant to 28 U.S.C. § 1367(a).

6. Plaintiff filed the Complaint on May 18, 2022. [Dckt. No. 1].

7. On May 18, 2022, Plaintiff filed one (1) Request for Issuance of Summon as to Sophia Collier. [Dckt. No. 4].

8. Electronic summonses were subsequently issued on May 18 2022. [Dckt. No. 8].

9. On August 4, 2022, the Defaulting Defendant was served a Summons and Complaint, with Civil Cover Sheet. [Dckt. No. 3. Pursuant to Fed.R.Civ.P. 12, an answer or other response to the Complaint was due on or before August 25, 2022.

10. On August 16, 2022, Proof of Service was filed with the Court. [Dckt. No. 9].

11. However, to date, Defaulting Defendant has not answered or otherwise responded to Plaintiff's Complaint and that time for Defaulting Defendant to do so has expired.

12. The plaintiff was ordered to request entry for default for Defendant by October 7, 2022 on September 29, 2022.

13. The action seeks judgment against, *inter alia*, the Defaulting Defendant for: unpaid overtime wages, spread of hours pay, liquidated and statutory damages, pre- and post-judgment interest, and attorneys' fees and costs pursuant to the FLSA, NYLL, and the NYLL's Wage Theft Prevention Act ("WTPA").

Dated: New York, New York
October 7, 2022

Respectfully submitted,

By: /s/ Jason Mizrahi
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